

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: 6-14-05

VICTOR HOTH0 and AYAKO MITSUI, :  
individually and as parents and natural :  
guardians of infant, ALYN HOTH0, :

Plaintiffs :

v. :

EDWARD F. ROSSI, M.D. :  
and :  
PEDIATRICS EAST OF NEW YORK, P.C. :  
and :  
ST. VINCENT'S HOSPITAL :  
MANHATTAN :

Defendants :

JURY TRIAL DEMANDED

CIVIL ACTION NO: 05-CV-2609

PRETRIAL SCHEDULING ORDER

APPEARANCES:

Plaintiff(s) by: Steven P. Knowlton, Esquire, Locks Law Firm, PLLP

Patricia M. Giordano, Esquire, Layser & Freiwald, P.C.

Defendant(s) by: Carol Russell, Esquire, Aaronson, Rappaport, Feinstein & Deutsche  
Attorneys for Edward F. Rossi, M.D. and Pediatrics East of New York

Paul E. Blutman, Esquire, Costello, Shea & Gaffney, LLP  
Attorneys for St. Vincent's Hospital

**HAROLD BAER, Jr., District Judge:**

Do the parties consent to proceed before a United States Magistrate for all purposes, pursuant to 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73?

Yes \_\_\_\_\_ No ☒

**Plaintiffs consent to discovery matters and trial being heard by a Magistrate.**

**Defendants Dr. Rossi and Pediatrics East of New York consent only to discovery matters being heard by the Magistrate. Defendants do not consent to trial before the Magistrate.**

Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, after holding an initial pretrial conference on notice to all parties, it is hereby ordered that:

Except under circumstances agreed to by the Court:

1. No additional parties may be joined after September 15, 2005 <sup>OCT 1 2005</sup>
2. No additional causes of action or defenses may be asserted after December 31, 2005 <sup>February 15, 2006</sup>
3. **Discovery:** All discovery, except for expert discovery, shall be commenced in time to be completed by December 31, 2005. Disclosure of expert testimony, if any, will be made at least 45 days before the agreed to trial month. Evidence intended to contradict or rebut the subject matter of the expert testimony will be submitted within 21 calendar days after the disclosure made by the other party, subject only to further order of this Court. As the Court rarely grants extensions, any delays or disputes in the taking of discovery should be reported to the Court immediately.

4. **Motions:** No party may make a dispositive motion returnable after April 1, 2006 <sup>Feb 15 2006</sup>. Either party may request (and will be given a date by Chambers) for oral argument. The above date is the date by which any motion shall be fully briefed (i.e., moving, opposition and reply papers) and a courtesy copy delivered to Chambers.

In deciding the last date to submit fully briefed motions and your agreed to trial month, keep in mind that the Court requires at least 60 days to decide dispositive motions.

5. **Joint Pretrial Order:** A joint pretrial order shall, unless waived by the court, be submitted by June 1, 2006 <sup>April 30, 06</sup>. The pretrial order shall conform to the Court's Individual Practice and Rules. Counsel may inquire of Chambers with respect to the filing date(s) for requests to charge, proposed voir dire, and motions in limine, but in no event are they to be submitted less than five (5) business days (fully briefed) before the date set for trial.

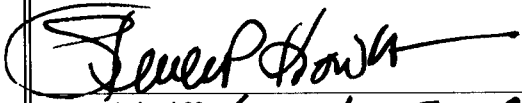
6. **Jury** ☒ **Non-Jury** ☐. Estimated number of trial days is 5. **This case is added to the May 2006 Trailing Trial Calendar.** Counsel should not make any other commitments during this month. All cases will be tried within a reasonable time from the date of this pretrial conference based on the complexity of the case.

7. The law clerk assigned to this case is DANIEL SILVER <sup>MICHAEL FEINSTEIN</sup> whom all correspondence should be directed.

8. Upon request to Chambers by either side, the Court will schedule and conduct a settlement conference and/or mediation. The Court will also, upon request, facilitate mediation under the Court Mediation Program or a settlement conference before your Magistrate Judge. In the case of a mediation to be conducted by the Court, all parties must bring their respective clients to the mediation. Keep in mind, closure, for the most part, is accomplished in direct proportion to how early in the litigation the mediation occurs. Any ADR procedure must occur within the framework of this order.

9. Whenever a case is resolved, the parties must submit an Order of Discontinuance, signed by all parties. When the parties settle within forty-eight hours of trial or the filing of a dispositive motion, they must notify the Court immediately of such settlement, and fax to the Court no less than thirty-six hours prior to their planned appearance, an Order of Discontinuance (copy attached), signed by all parties.

10. The parties' signatures below represent their understanding and agreement that this schedule is final and binding upon them unless the court concludes that extraordinary circumstances warrant an extension with respect to one or more than one of the scheduled dates.

  
For Plaintiff *Locks Law Firm LLC*

  
For Defendant

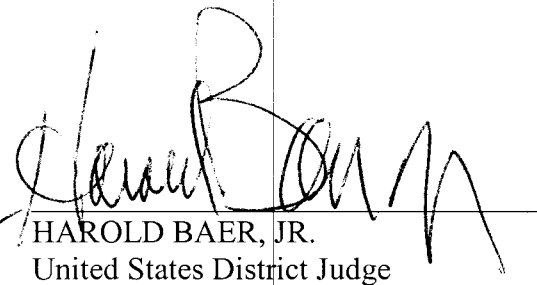
\_\_\_\_\_  
For Plaintiff

  
For Defendant

**SO ORDERED.**

DATED: New York, New York

*Jan 14, 05*

  
HAROLD BAER, JR.  
United States District Judge